

Message Text

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ACTION STR-04

INFO OCT-01 ISO-00 STRE-00 AF-10 ARA-06 EA-07 EUR-12

NEA-10 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00

EB-07 FRB-03 H-01 INR-07 INT-05 L-03 LAB-04

NSAE-00 NSC-05 PA-01 EPG-02 AID-05 SS-15 ITC-01

TRSE-00 USIA-06 PRS-01 SP-02 FEAE-00 OMB-01 OIC-02

IO-13 /140 W

-----161843Z 023033 /50

P R 161645Z MAY 77

FM USDEL MTN GENEVA

TO SECSTATE WASHDC PRIORITY 2463

INFO AMEMBASSY BRASILIA

AMEMBASSY OTTAWA

AMEMBASSY TOKYO

USMISSION EC BRUSSELS

USMISSION OECD PARIS

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ACTION STR FOR GREENWALD, MATTHEISEN

EO 11652: NA

TAGS: ETRD, MTN, GATT, OCON

SUBJ: EC VIEWS ON FRAMEWORK GROUP

REF: A. EC BRUSSELS 4771, B. MTN GENEVA 1043, C. MTN GENEVA 1341

1. SUMMARY: EC DEL INDICATES COMMUNITY THINKING ON WORK OF
FRAMEWORK GROUP (FG) SUFFICIENTLY ADVANCED FOR IT TO AGREE
TO SCHEDULING OF NEXT MEETING OF GROUP, NOW LIKELY FOR LATE
JUNE-EARLY JULY. MEMBER STATES CONTINUE TO OPPOSE FG DISCUSSION
AT THIS TIME OF DC BOP MATTERS AND DISPUTE MANAGMENT,
ALTHOUGH RE LATTER TOPIC COMMISSION INTEREST IN A GATT
G-18 DICSUSSION SEEMS TO HAVE STRENGTHENED. EC NOW FULLY
SUPPORTS U.S. INITIATIVE ON EXPORT RESTRICTIONS WHILE
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RECOGNIZING ITS LIMITED SCOPE.IEC PREPARED TO GIVE NO
GROUND ON RECIPROCITY TOPIC AND BRAZILIAN ARTICLE
XVIII PROPOSALS,IAND HAS NO NEW IDEAS ON LDC 'GRADUATION'"
IT IS READY, HOWEVER, TO SHOW FLEXIBILITY BY PROPOSING A GATT
"ENABLING CLAUSE" FOR TARRIFF/NON-TARIFF SPECIAL/DIFFERENTIAL
(S/D) TREATMENT FOR INDIVIDUAL LDCS; MTN DEL BELIEVES LATTER IN-
ITIATIVE IF PURSUED NOW COULD POST EXTREMELY SERIOUS PROBLEMS FOR

USG STRATEGY AND SHOULD BE HEADED OFF IF POSSIBLE.
END SUMMARY.

2. AMB WALKER, ET AL., MET MAY 11 WITH EC REP LUYTEN AT HIS REQUEST TO EXCHANGE VIEWS ON STATUS MTN FRAMEWORK GROUP (FG). LUYTEN REPORTED SOME PROGRESS IN EVOLVING MEMBER STATE VIEWS THANKS TO PRESSURE OF PREVIOUSLY ANTICIPATED MAY MEETING OF FG, NOTING THAT SLIPPAGE NOW INTO JUNE WOULD PERMIT FURTHER INTRA-EC DISCUSSION. WHETHER EC WILL ADDRESS BRAZILIAN PROPOSALS DIRECTLY AND/OR MAKE PROPOSAL OF ITS OWN (SEE BELOW) STILL UNCLEAR, BUT NOT RULED OUT. FYI: GATT DDG PATTERSON ADVISES MEETING OF FG "NEEDED" BY END JUNE, ALTHOUGH BRAZILIANS ASSURE US PRIVATELY THEY ARE NOT PRESSING. WE CONCLUDE SECRETARIAT PRESSURE PLUS EC "READINESS" MEANS A FG MEETING WILL BE SCHEDULED DURING PERIOD JUNE 20-JULY 8, WHETHER DELS WANT IT OR NOT. END FYI.

3. TOPIC A: LEGALIZATION OF S/D. EC STILL SEES MAIN FG TASK AS LEGAL FRAMEWORK FOR SPECIAL/DIFFERENTIAL LDC TREATMENT IN RELATION TO GATT PROVISIONS. EC NOW PREPARED TO HAVE A GATT CLAUSE "PERMITTING" TARIFF AND NON-TARIFF PREFERENCES FOR INDIVIDUAL DEVELOPING COUNTRIES -- BUT NOT FOR "THE" DEVELOPING COUNTRIES AS A MONOLITHIC GROUP. EC WOULD PROPOSE NOTIFICATION/CONSULTATION OF ALL SUCH MEASURES FOR REVIEW AND NON-OBJECTION BY CP'S UNDER THE NEW CLAUSE. THORNIEST PROBLEM IN EC VIEW REMAINS THE PROLIFERATION OF INTRA-LDC PREFERENCES, ESPECIALLY IN THE NON-TARIFF AREA CITING BRAZIL IN PARTICULAR; COMMUNITY PERPLEXED ABOUT HOW TO KEEP THESE IN CHECK.
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4. LUYTEN STATED THAT EC MAY MAKE THIS PROPOSAL AS EARLY AS NEXT FG MEETING AND ASSUMED IT MIGHT CAUSE US PROBLEMS SINCE HE UNDER IMPRESSION U.S. WANTED TO CONTINUE WAIVER APPROACH TO S/D. WE RESPONDED THAT, TO CONTRARY, US PREPARED IN PRINCIPLE TO AGREE TO SOME CHANGE IN GATT THAT WOULD GO BEYOND WAIVERS FOR SPECIAL/DIFFERENTIAL TREATMENT, BUT NOT AT OUTSET OF NEGOTIATIONS. WE HAD DOUBTS THAT EC APPROACH GAVE ADEQUATE CONTROL OVER PRESSURES FOR MORE S/D, ESPECIALLY ON NTMS, AND QUESTIONED IN STRONGEST TERMS TABLING THAT SORT OF INITIATIVE AT THIS EARLY STAGE. AFTER A GLOOMY ASIDE (IMPLYING EC ONLY BEING PRAGMATIC ABOUT GROWING LDC ABILITY IN THE GATT TO GET AWAY WITH MORE AND MORE) LUYTEN WARNED THAT DC'S SHOULD NOT WAIT LONG TO DO SOMETHING HERE, SO AS NOT TO LOSE CREDIT FOR THE "GEST." HOWEVER, HE PROMISED FURTHER CONSULTATION WITH US BEFORE EC "INITIATIVE" IF FIRMS UP.

5. TOPIC B: BOP AND ECONOMIC DEVELOPMENT SAFEGUARDS. LUYTEN SAID EC POSITION UNCHANGED IN RESISTING FG DISCUSSION OF

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INFO OCT-01 ARA-06 EUR-12 EA-07 IO-13 ISO-00 STRE-00
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LAB-04 NSAE-00 NSC-05 PA-01 EPG-02 AID-05 SS-15
ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 FEAE-00
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P R 161645Z MAY 77
FM USDEL MTN GENEVA
TO SECSTATE WASHDC PRIORITY 2464
INFO AMEMBASSY BRASILIA
AMEMBASSY OTTAWA
AMEMBASSY TOKYO
USMISSION EC BRUSSELS
USMISSION OECD PARIS

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BALANCE-OF PAYMENTS REULES FOR DCS, ALTHOUGH SENSITIVITY
AMONG MEMBER STATES WAS DECREASING WITH PASSAGE OF TIME.
ON PROCEDURAL ASPECTS, HE THOUGHT IT "RIDICULOUS" TO DEBATE
WHETHER ALL MEASURES SHOULD BE REVIEWED IN ONE BODY, BUT
WAS SERIOUSLY CONCERNED AT PROPOSAL TO ASSIGN GATT SECRETARIAT
THE TASK OF ASSESSING TRADE EFFECTS. (THIS WOULD ENTAIL
UNPRECEDENTED SECRETARIAT INVOLVEMENT IN SUBJECTIVE OR
POLICY JUDGEMENTS -- AND BASED ON INADEQUATE STATISTICS TO
BOOT.) GATT WAS REALLY ONLY "SHADOWAABOXING" WITH BOP PROBLEMS
ANYWAY GIVEN PREPONDERANT IMF LEVERAGE, BUT PERHAPS IT
SHOULD "KEEP UP APPEARANCES" FOR THE DAY WHEN DCS MIGHT REALLY
WANT TO MAKE AN ISSUE OF A GIVEN BOP CASE. REGARDING LDC
BOP ISSUES, LUYTEN REGRETTED HAVING ACCEPTED SIMPLIFIED GATT
CONSULTATION PROCEDURE, CITING RECENT EXPERIENCE WITH
ARGENTINES WHO "NOW FEEL THEY HAVE A RIGHT TO IT." IN THIS
VIEN, HE WARNED AGAINST U.S. SUPPORT OF LDC PROPOSAL TO
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EXPLICITLY MAKE AS SUBJECT OF ONE COUNTRY'S BOP CONSULTATIONS -- MEASURES MAINTAINED BY OTHER COUNTRIES -- THE TREND WAS "CONSULTATIONS INVOLVING EVERYONE EXCEPT THE COUNTRY APPLYING THE MEASURE." REGARDING BRAZIL'S PROPOSALS ON OTHER PARTS OF ARTICLE XVIII, LUYTEN COMMENTED "LET THEM SHOW THEY NEED IT" -- THEY HAVE TOO MANY OTHER GIMMICKS ALREADY.

6. TOPIC C: CONSULTATION, SURVEILLANCE, DISPUTE SETTLEMENT. LUYTEN EXPANDED ON EARLIER EC ARGUMENTS THAT DISCUSSION OF DISPUTE-SETTLEMENT PROCEDURES WILL GET FG "INTO A MESS." WHAT WOULD IT ACHIEVE? WHAT SORT OF "CRAZY" S AND D PROVISIONS MIGHT EMERGE? (IF GATT SECRETARIAT ASSISTS LDCS IN GETTING UP A CASE, AND SUBSEQUENTLY ADVISES PANELISTS ON THEIR EXAMINATION, SECRETARIAT WILL BE "IN A POSITION TO ACT SIMULTANEOUSLY AS PLAINTIFF AND JUDGE") AS IN FEBRUARY (REF B), LUYTEN SUGGESTED U.S. IS TAKING A "JURIDICAL AND LEGALISTIC" APPROACH TO MATTERS WHICH SHOULDN'T BE CODIFIED; INDEED, NO FORMAL MECHANISM CAN SOLVE DISPUTES IF CONVICTION IS LACKING ON PART OF CONTRACTING PARTIES. AS TO NTM CODES, COMMISSION BELIEVES APPLYING A SINGLE APPROACH SUCH AS PANEL PROCEDURES AND ARTICLES XXII/XXIII WILL ONLY BOG DOWN THOSE AGREEMENTS THROUGH PROLIFERATION OF MINOR DISPUTES IN EARLY STAGE OF CODE EXPERIENCE. IN SUM, EC BELIEVES IMPROVED GATT PROCEDURES FOR DISPUTE SETTLEMENT SHOULD INDEED BE TAKEN UP AMONG GATT CPS, BUT NOT IN NEGOTIATING FORUM LIKE FG DESIGNED TO PRODUCE LEGAL TEXTS (AND INCLUDING NON-GATT MEMBERS TOO). EC AGREES WITH DESIRABILITY OF SOME BETTER FORMULATION, BUT DISCUSSION SHOULD FOCUS ON ACTUAL PRACTICE UNDER GATT AND HOW IT COULD BE IMPROVED BY UNDERSTANDINGS AMONG KEY COUNTRIES. LUYTEN STRESSED EC WILLINGNESS TO PURSUE IN G-18 WHERE PRAGMATIC IMPROVEMENTS COULD EVOLVE.

7. WE RESPONDED THAT U.S. ALSO WOULD EXPECT USEFUL G-18 DISCUSSIONS, BUT LUYTEN'S STATEMENT THAT IMPROVEMENTS WERE WARRANTED REINFORCED OUR VIEW THAT DISPUTE-SETTLEMENT PROCEDURES NEED TO BE DISCUSSED IN MTN. U.S. WAS NOT LIMITED OFFICIAL USE

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STRESSING "CODIFICATION" BUT RATHER BETTER "GUIDELINES" FOR DISPUTE MANAGEMENT. PARTIES TO A DISPUTE MAY INDEED LACK CONVICTION, BUT WITHOUT CREDIBLE PRESSURE POINTS OR ACTION-FORCING EVENTS, THE PROCESS ITSELF WILL ATROPHY FURTHER. WE CONSIDER IT A GENERIC PROBLEM THAT MUST BE DEALT WITH IN SEVERAL MTN CONTEXTS, AND RESULTS MUST BE UNDERSTOOD AND MADE USE OF BY POLICYMAKERS. IN MANY RESPECTS, WE BELIEVED U.S. AND EC IN PRINCIPLE WOULD BE AIMING AT SIMILAR IMPROVEMENTS. IN FG, ISSUE HAD BEEN RAISED BY BRAZIL, NOT U.S., BUT WE DIDN'T FIND IT "NECESSARILY UNHEALTHY" TO EXAMINE PROBLEMS LIKE DISPUTE SETTLEMENT IN

PRESENCE OF LDCS AND IN CONTEXT OF THEIR PARTICULAR SITUATIONS.

8. RECIPROCITY AND GRADUATION: LUYTEN SAID EC TAKING A TOUGH NO-NONSENSE APPROACH TO RECIPROCITY/GRADUATION TOPIC, WILL OPPOSE ANY REDRAFTING EFFORT ON GATT RECIPROCITY LANGUAGE. RECIPROCITY WAS IN LDCS' OWN INTEREST, AND EC WANTED TO USE THIS TOPIC INDIRECTLY TO PRESSURE TF REDUCTION FINDINGS, AND ADMINISTRATIVE SIMPLIFICATIONS. NOTING "SOME LDCS ARE

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INFO OCT-01 ISO-00 STRE-00 AGR-05 CEA-01 CIAE-00
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SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 FEAE-00
OMB-01 AF-10 ARA-06 EA-07 EUR-12 NEA-10 OIC-02
IO-13 /140 W

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P R 161645Z MAY 77
FM USDEL MTN GENEVA
TO SECSTATE WASHDC PRIORITY 2465
INFO AMEMBASSY BRASILIA
AMEMBASSY OTTAWA
AMEMBASSY TOKYO
USMISSION EC BRUSSELS
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ACTION STR FOR GREENWALD, MATTHEISEN

RICHER THAN CERTAIN MEMBER STATES," HE ADDED THAT COMMUNITY STILL INSISTS ON TROPICAL PRODUCTS CONTRIBUTIONS IN DUE COURSE. ON GRADUATION, EC WAS NOT COMING UP WITH ANY GOOD "TRIGGER" FORMULA EXCEPT FOR DCS TO RETAIN FLEXIBILITY TO DENY S AND D TO INDIVIDUAL LDCS MUCH AS THEY DO NOW UNDER GSP. IN SOME CASES, DENIAL OF EVEN MFN TREATMENT MIGHT BE WARRANTED.

9. EXPORT RESTRICTIONS: EC MEMBER STATES NOW FULLY IN ACCORD WITH U.S. INITIATIVE IN FG ON EXPORT RESTRICTIONS, RECOGNIZING THAT NOT ALL OF THE PROBLEM OF SUPPLY SECURITY WITHIN REACH UNDER THIS FG TOPIC. BUT EC ACCEPTS THAT WORK

SHOULD BEGIN WITH "SOMETHING NOT EASILY REJECTED," I TO SEE IF FURTHER WORK IS POSSIBLE. SUPPORT FOR THIS COULD ONLY BE EXPECTED FROM JAPAN AND OTHER WESTERN EUROPEAN COUNTRIES. LIMITED OFFICIAL USE

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LUYTEN ALSO NOTED HE "RELUCTANTLY" AGREED WITH CANADIAN CONTENTION THAT TERMINOLOGY "EXPORT RESTRICTIONS" EXCLUDED EXPORT DUTIES AND TAXES. MTN DEL, WHILE WELCOMING LUYTEN'S NEWS THAT EC HAD STRENGTHENED ITS SUPPORT OF U.S. POSITION, EMPHATICALLY DISAGREED WITH LUYTEN'S COMMENT ON TAXES. WE SAID U.S. CONVINCED THAT A MUCH MORE PERSUASIVE CASE CAN BE MADE FOR INCLUSION OF EXPORT DUTIES AND ASKED LUYTEN TO REFRAIN FROM SUPPORTING CANADA'S CONTENTION ON THIS POINT IN EC CONTACTS WITH OTHER DELEGATIONS. LUYTEN PROMISED TO HOLD OFF PENDING FURTHER US-EC BILATERAL DISCUSSION AND ELABORATION OF OUR ARGUMENTS.

10. COMMENTS: LUYTEN'S STATEMENTS APPARENTLY REFLECTED OUTCOME OF 113 COMMITTEE MEETING IN BRUSSELS MAY 6. HIS PRESENTATION, HOWEVER, LEFT IMPRESSION THAT CONTRAST BETWEEN EC AND U.S. THINKING ON CERTAIN FRAMEWORK TOPICS GOES CONSIDERABLY BEYOND THE "DIFFERENCE OF STRATEGY" DESCRIBED REF A. HE MAY WELL BE READING BETWEEN THE LINES ON MEMBER-STATE QUALMS OVER BOP AND DISPUTE-SETTLEMENT TOPICS, COLORING THAT READING WITH HIS OWN FIRMLY HELD CONVICTIONS.

11. WE ARE SERIOUSLY DISTURBED, HOWEVER, BY EC'S APPARENT READINESS TO EXTEND BLANK CHECK TO LDC'S FOR FURTHER PREFERENTIAL TREATMENT VIA "ENABLING CLAUSE" PROPOSAL (PARAS 3, 4 ABOVE). LANGUAGE ENCOURAGING NON-TARIFF PREFERENCES WOULD BE ESPECIALLY TROUBLESOME, GIVEN THAT VARIOUS NTM NEGOTIATIONS HERE STILL DEBATING WHAT S/D, IF ANY, TO OFFER LDC'S. WE RECOMMEND THAT THIS MATTER BE TAKEN UP AS A PRIORITY ITEM IN WHATEVER INTENSIVE US-EC MTN BILATERALS ARE HELD IN POST-SUMMIT AND POST-CIEC CONTEXT. OBJECT WOULD BE TO PERSUADE EC THAT SO SWEEPING A GESTURE TO LDC'S IN FG IS DANGEROUS, AND OBJECTIONABLE TO USG, BOTH BECAUSE IT WOULD BE PIG IN POKE IN TERMS OF COSTS TO DC'S AND BENEFITS TO LDC'S, AND BECAUSE IT RUNS RISK OF TURNING FG PROCEEDINGS INTO A "BEAUTY CONTEST" WHERE DC'S VIEW WITH EACH OTHER TO CURRY LIMITED OFFICIAL USE

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LDC FAVOR FOR COMPETING DC PROPOSALS TO "LEGALIZE" S/D. IF NECESSARY, WE COULD PERHAPS TALK EC INTO A US-EC TECHNICAL LEVEL BILATERAL EXAMINATION OF HOW THEIR PROPOSAL WOULD

OPERATE AND HOW BURDENS IT WOULD APPEAR TO CREATE FOR DC'S
WOULD BE EQUITABLY SHARED. WALKER

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Message Attributes

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